

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 09-42209

ROBERT ARTHUR HOUVENER,

Chapter 7

Debtor.

Judge Thomas J. Tucker

**ORDER FINDING LEASE ASSUMPTION AGREEMENT (DOCKET # 16)
INVALID AND UNENFORCEABLE**

On January 29, 2009, Debtor filed a voluntary petition for relief under Chapter 7, initiating this case. On February 24, 2009, Debtor filed a "Lease Assumption Agreement" that Debtor and DCFS Trust entered into on February 23, 2009, in which Debtor purported to assume a lease of a 2007 Dodge Dakota under 11 U.S.C. § 365(p) (Docket # 16). On March 3, 2009, Debtor filed a notice of "Rescission [sic] of Lease Assumption Agreement and Rejection of Lease" (Docket # 17). On March 4, 2009, DCF Trust filed an objection to Debtor's rescission notice (Docket # 18). The Court held a hearing on March 18, 2009. For the reasons stated more fully by the Court on the record at the hearing,

IT IS ORDERED that the Lease Assumption Agreement (Docket # 16) is determined to be invalid and unenforceable, because the Debtor and this creditor (DCFS Trust) entered into such agreement before the Chapter 7 trustee rejected the lease or the lease was deemed rejected under 11 U.S.C. § 365(d)(1). *See also* 11 U.S.C. §§ 365(a), 365(p)(1), and 365(p)(2).

Signed on March 18, 2009

/s/ Thomas J. Tucker

Thomas J. Tucker
United States Bankruptcy Judge